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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/900,432	07/06/2001	Shigenori Taga	44471-260840 (13700)	4976

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EXAMINER

HO, THOMAS Y

ART UNIT

PAPER NUMBER

3677

DATE MAILED: 11/29/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/900,432	TAGA, SHIGENORI
	Examiner Thomas Y Ho	Art Unit 3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 09/26/02.
  - 2a) This action is FINAL.                  2b) This action is non-final.
  - 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.
- Disposition of Claims**
- 4) Claim(s) 1-8 is/are pending in the application.
    - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
  - 5) Claim(s) \_\_\_\_\_ is/are allowed.
  - 6) Claim(s) 1-8 is/are rejected.
  - 7) Claim(s) \_\_\_\_\_ is/are objected to.
  - 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
 

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |                                                                                              |                                                                             |
|----------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Objections*

Claims 2, 3, and 5 are objected to because of the following informalities: The word "wherein" in the preambles of claims 2, 3, and 5 should be removed for proper grammatical construction. Alternatively, the word "comprising" could be changed to --comprises-- to also make for proper grammatical construction. Appropriate correction is required.

Claim 4 is objected to because of the following informalities: The word "making" should be changed to --placing-- or any word of the like other than "making". Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Shimada USPN5443292.

As to claim 1, Shimada discloses a power lid closing device comprising:

- A striker 45 provided in one of a trunk lid 10 and a peripheral edge portion of a trunk opening 11.
- A latch 17 provided in the other of the trunk lid 10 and the peripheral edge portion of the trunk opening 11.
- A drive mechanism having a lock canceling member 60.

- The drive mechanism being operative when the latch 17 is engaged with the striker 45 so as to bring in a second member including the latch 17 via a first member including the striker 45 moving to a bring-in position from a waiting position, thereby closing the trunk lid 10 (col.6, ln.47-68; col.7, ln.1-9, ln.28-35).
- The lock canceling member 60 being operative to move to a restricting position at which the latch 17 is under a restricting state that the latch can not be taken out from the striker (col.7, ln.57-63), and to a restriction canceling position at which the latch 17 is under a restriction canceling state that the latch can be taken out from the striker 45 (col.8, ln.1-26).
- The drive mechanism driving the lock canceling member 60 from the restricting position to the restriction canceling position in response to the first member being returned to the waiting position from the bring-in position (col.8, ln.1-26).
- The lock canceling member 60 being restricted to the restriction canceling position during a period that the first member is returned to the waiting position from the bring-in position (col.8, ln.1-25), and after returning the first member to the waiting position, the lock canceling member 60 being movable from the restriction canceling position (fig.24) to the restricting position (fig.21) (col.8, ln.26-34).

As to claim 2, Shimada discloses a power lid closing device wherein the drive mechanism further comprises:

- An output member 55.

- Wherein the output member 55 drives the lock canceling member 60 from the restricting position to the restriction canceling position at a time that the first member is returned to the waiting position from the bring-in position (col.8, ln.1-26).
- Wherein during a period that the first member is returned to the waiting position from the bring-in position (col.8, ln.1-26), the lock canceling member 60 is restricted at the restriction canceling position (fig.24), and after returning the first member to the waiting position (fig.24), the lock canceling member 60 can be moved from the restriction canceling position to the restricting position (fig.21).

As to claim 3, Shimada discloses a power lid closing device wherein the lock canceling member comprises:

- A first cam.
- A second cam.
- A third cam.
- The output member 55 is relatively brought into slidable contact (through pin 56) with the first cam at a time that the first member is returned to the waiting position from the bring-in position, whereby the lock canceling member 60 is moved from the restricting position to the restriction canceling position (col.8, ln.1-15). This first cam is simply an extent on surface 63 that is first contacted during the opening function described (col.8, ln.1-15).
- During the period that the first member is returned to the waiting position from the bring-in position, the output member 55 is relatively brought into slidable contact with the second cam, whereby the lock canceling member 60 is restricted at the

restriction canceling position. The second cam is a second extent on the surface 63 that is contacted by pin 56. The lock canceling member 60 remains in abutting contact with lower end 18a of the locking plate 18, which is the restriction canceling position (corresponds to the locking plate 18 being unable to restrict the latch plate 17).

- After returning the first member to the waiting position, the output member is relatively brought into slidable contact with the third cam, whereby the lock canceling member 60 can be moved from the restriction canceling position (fig.24) to the restricting position (fig.21). The third cam is a third extent on the surface 63 against which the pin 56 is in slidable contact. The output member 55 only rotates in a single direction (counterclockwise) (col.4, ln.33-38). Therefore, from drawing stop position (fig.23) to restriction canceling position (fig.24), the pin 56 must contact surface 63 in a manner moving from the right side of 63 to the left side of 63, as the output member 55 continues its counterclockwise rotation from restriction canceling position (fig.24) to the initial position (fig.21). Any three portions of surface 63 can be a first, second, and third cam.

As to claim 4, Shimada discloses a power lid closing device wherein:

- The second member is provided with a locking plate 18 which can move to a restriction canceling position for placing the latch in a restriction canceling state (col.8, ln.1-16).

As to claim 5, Shimada discloses a power lid closing device, the output member comprising:

- A cam follower 56 bringing in the second member via the first member (col.7, ln.28-35).
- The cam follower 56 being relatively brought into slidable contact with a cam groove 41 formed in the first member.
- The cam follower 56 is relatively brought into slidable contact with the first cam, second cam, and third cam in this order. The first, second, and third cams are extents along the length of surface 63 that are contacted in order as the cam follower 56 moves from right to left across surface 63, as the output member 55 completes a full counterclockwise rotation (from fig.23 to fig.21).

As to claim 6, Shimada discloses a power lid closing device wherein:

- The cam follower 56 moves along a circumference.
- The second cam is formed along the circumference at a time that the lock canceling member 60 is at the restriction canceling position.
- The first cam and the third cam are respectively connected to both sides of the second cam, and are formed so as to gradually move close to or apart from a center of the circumference respectively. The first, second, and third cams are extents along the length of surface 63 that are contacted in order as the cam follower 56 moves from right to left across surface 63, as the output member 55 completes a full counterclockwise rotation (fig.23 to fig.21). It is disclosed by Shimada (from fig.21 to fig.22) that the cams 63 are clearly moving close to a center 57 of the circumference defined by the path of the cam follower 56.

As to claim 7, Shimada discloses a power lid closing device wherein:

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- The lock canceling member 60 is urged from the restriction canceling position to the restricting position by a coil spring 62. It is shown (fig.24) that the coil spring 62 is stressed when the lock canceling member 60 is moved into restriction canceling position.

As to claim 8, Shimada discloses a power lid closing device further comprising:

- A support base 40.
- The lock canceling member 60 is supported by a shaft on the support base. The shaft is unnumbered in the Shimada reference.

***Response to Arguments***

Applicant's arguments filed 09/26/02 have been fully considered but they are not persuasive.

As to Applicant's arguments in reference to claim 1 that Shimada does not disclose all claimed limitations, the Examiner disagrees. The cited portions do not disclose the all of the details, but merely begin to point out the structures and functions disclosed by Shimada. A more complete citation of relevant language would be: col.6, ln.47-68; col.7, ln.1-9, ln.27-36, ln.57-64; col.8, ln.1-34. The characterization of claim 1 by the Examiner in the first action is irrelevant, and only the actual claim language is relevant to the rejection. Shimada does disclose that during a period that a striker 45 is returned to the waiting position (col.8, ln.1-16) from the bring-in position (fig.23), the lock canceling member 60 is restricted to a restriction canceling position (fig.24; 60 abutting 18a).

As to Applicant' arguments in reference to claim 8 that Shimada does not discloses a lock canceling member supported by a shaft on a support base, the Examiner disagrees. The

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Applicant admits in the argument that the open lever 60 disclosed by Shimada is in fact pivotably mounted by a shaft on a striker base 40. The striker base 40 is a support base, because it supports the member 60.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

USPN4652027 to Quantz discloses a lock mechanism.

USPN5007261 to Quantz discloses a lock mechanism.

USPN5868444 to Brackmann discloses a trunk latch.

USPN5934717 to Wirths discloses a motor vehicle lid.

USPN6109671 to Roncin discloses an electric lock.

USPN6422615 to Roos discloses a closure device with shutting aid.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Y. Ho whose email address is thomas.ho@uspto.gov and telephone number is (703) 305-4556. The examiner can normally be reached on M-F 9:30AM-6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on (703) 306-4115. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326.

TYH  
November 22, 2002

*J.J. Swann*  
J. J. SWANN  
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